

161-10
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:

Conf. No.: 5400

Toshiaki KANEMITSU et al.

Group Art Unit: 3725

Appln. No. 09/638,032

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JUN 22 2005

Examiner: L.A. Larson

Filed: August 15, 2000

OFFICE OF PETITIONS

Attorney Docket: KANE3012/FJD

For: METHOD OF PRODUCING A ROTARY
MEMBER MADE OF A METALLIC
PLATE

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER #3700

Sir:

Receipt of the Decision issued April 20, 2005 against applicants Petition to Revive is gratefully acknowledged.

The Decision identifies four (4) requirements that must accompany the Petition. The Decision indicates that three of the four requirements have been met, and that requirement (1), the required reply was lacking. Specifically, the stated declaration under 37 CFR 1.132 "is required....under 37 CFR 1.114....concurrently with the Request for Continued Examination (RCE)."


The declaration under 37 CFR 1.132 had been previously filed in the prior application forming the family of the present application. It was not filed with the latest RCE because it was not in the previous file. A copy of the declaration has been retrieved from application No. 08/146,005 and is enclosed herewith.

The prosecution of this application has a long history. Applicants, by counsel, would like to note the following.

In the first continuation filed (FWC) on April 30, 1999 a decision was rendered by the Board of Appeals affirming the examiner's rejection under 35 USC 112, first paragraph, reversing the rejection under 35 USC 103 over Cross in view of Neumeyer and issuing a new ground of rejection under 35 USC 112, first paragraph. The declaration under 37 CFR 1.132 was not considered by the Board although it was of record. As a result applicants decided to refile the application under 37 CFR 1.53(d) on August 15, 2000. Applicants wanted to address the new ground of rejection and seek consideration of the declaration under 37 CFR 1.312. A first action final was issued, however, precluding further prosecution. In this first action final, the examiner did not mention the new ground of rejection raised by the Board, did not consider the declaration under 35 USC 1.312 and made a rejection under 35 USC 103 over Neumeyer in view of Cross. Applicants have filed four (4) additional RCE applications in an effort to clarify the record. It was hoped that the examiner would issue a non-final first action repeating the Board's new ground of rejection and acknowledging the declaration under 37 CFR 1.312. This has not happened.

It is respectfully requested that this case be revived so that a reply can be filed by applicants before action is taken by the examiner so that a petition can be filed invoking the supervisory authority of the Group Director to have the examiner make of record in this further RCE the new ground of rejection and the withdraw the rejection over Neumeyer in view of Cross as it is the sdame rejection as the rejection reversed by the Board.

Respectfully submitted,



Felix J. D'Ambrosio
Reg. No. 25,721

June 20, 2005
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